S.B.CIVIL WRIT PETITION NO.3049/2006

State of Rajasthan & Anr.
V.
Bhanwari Bai & Anr.

DATE OF ORDER :: 6th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.L.Tiwari, Dy. Govt. Advocate.

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By this petition for writ a challenge is given to the correctness, validity and propriety of the award dated 30.4.2002 passed by learned Judge, Labour Court, Udaipur. The appropriate government by its notification dated 7.9.1999 referred an industrial dispute for its adjudication to the Labour Court, Udaipur in following terms:-

> " क्या जिला शिक्षा अधिकारी (छात्र संस्थाएं) राजसमन्द द्वारा अपनी श्रमिका श्रीमती भंवरी बाई पत्नी मदन लाल जिनका प्रतिनिधित्व जनरल सैकेट्री शैक्षणेतर कर्मचारी संघ उदयपुर द्वारा किया गया हैं (को दि. 30.4.94 से सेवा पृथक करना उचित एवं वैध हैं ? यदि नहीं तो श्रमिका किस राहत एवं राशि को प्राप्त करने की अधिकारिणी हैं ?"

A statement of claim was filed by the workman bug nobody put in appearance on behalf of the employer to contest the claim despite service. The Labour Court accordingly on 6.12.2001 ordered to proceed exparte against the employer petitioners. The Labour Court

considered the claim made by the workman and also the evidence produced to substantiate the claim and reached at the conclusion that termination of the workman was not just and valid. Accordingly, a direction was given to the petitioners to reinstate the respondent workman as Laboratory Attendant on existing wage rates.

Being aggrieved by the award impugned dated 30.4.2002 the instant petition for writ is filed by the petitioner on 19.7.2005. No explanation is given by the petitioner in entire petition for causing delay of more than three years in filing the writ petition. The award must have acquired finality on its publication under Section 17 of the Industrial Disputes Act, 1947. The petitioner has not placed on record the notification whereby the award impugned was published.

Be that as it may, even on merits I do not find any force in the writ petition. The workman was appointed as Class IV employee at Government Girls School, Kanod District Udaipur on 21.1.1987 and thereafter she was transferred to Government Girls Upper Primary School, Teliyo Ka Talab, Nathdwara on 25.9.1991. The petitioner was again subjected to transfer on 17.9.1993 by posting her at Government Girls Senior Secondary School, Kankroli wherefrom she was retrenched from service on 30.4.1994.

It is the position admitted that no notice or compensation was given to the petitioner in accordance with the provisions of Section 25-F of the Industrial Disputes Act, 1947. In view of it, I am of the opinion that the Labour Court rightly held that retrenchment of the respondent workman was not just and valid. No error has been committed by the Labour Court while making order for payment of wages on existing rates. It is well settled that a workman is entitled for wages existing and prescribed by the government.

In view of whatever discussed above, the writ petition is dismissed.

(GOVIND MATHUR),J.

kkm/ps.